

**REMARKS**

**STATUS OF THE CLAIMS**

Claims 1-3 and 5-58 were pending. Pursuant to a restriction requirement, claims 43, 44 and 53-58 have been withdrawn from consideration and have been canceled, without prejudice or disclaimer, by amendment herein. The limitations of claim 19 and allowable 34 have been incorporated into claim 22. Accordingly, claims 19 and 34 have been canceled, without prejudice or disclaimer. The dependencies of claims 23 and 37 have also been amended. In addition, claim 29 has been amended to correct a typographical error and claims 20, 39 and 40 have been canceled, without prejudice or disclaimer.

Thus, claims 22, 24-33, 35-39, 41, 42, 45, 46 and 59 are pending as shown above.

**ALLOWABLE SUBJECT MATTER**

Applicants note with appreciation that previous claims 34-36 were indicated as allowable (if rewritten in independent form). Accordingly, the above amendments, which rewrite claim 34 in independent form are all allowable.

**35 U.S.C. § 112, 1<sup>ST</sup> PARAGRAPH, ENABLEMENT**

Claims 38 and 39 were rejected under 35 U.S.C. § 112, 1<sup>st</sup> paragraph as allegedly not enabled by the specification as filed, namely because a deposit of the plasmids is required. (Office Action, pages 2-3).

Claim 39 has been canceled, without prejudice or disclaimer, thereby obviating this rejection.

Claim 38 is directed to a vector comprising a transposon as claimed in which the vector backbone is pAUL-A. As the Examiner correctly notes, plasmid pAUL-A, as recited in claim 38, must be readily available to the public or readily obtainable by a repeatable method set forth in the specification. In this regard, Applicants direct the Examiner's attention page 59, line 11 of the specification as filed, which cites Chakraborty et al (1992) regarding how to make pAUL-A. Chakraborty et al. is attached hereto for the Examiner's convenience and clearly provides a repeatable method for generating pAUL-A, as required. Accordingly, withdrawal of this rejection is requested.

**35 U.S.C. § 112, 2<sup>ND</sup> PARAGRAPH**

Claims 29 and 40 were rejected under 35 U.S.C. § 112, second paragraph as allegedly indefinite. (Office Action, page 4). In particular, it was noted that there was insufficient antecedent basis for the recitation "said conditional gram-negative..." in claim 29. *Id.* Claim 40

was rejected as allegedly indefinite on the grounds that "pSK" is a trademark and, accordingly, is subject to change over time, making it indefinite. *Id.*

Claim 29 has been amended as shown above such that proper antecedent basis is present.

Claim 40 has been canceled, without prejudice or disclaimer. Thus, the rejections under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph have been obviated and should be withdrawn.

### **35 U.S.C. § 102**

Claims 19, 22-26, 30, 32, 33, 41, 43, 45, 46 and 59 were rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Reference AV-1 of the IDS filed October 9, 2001 (hereinafter Sohaskey). (Office Action, pages 4-6). It was alleged that Sohaskey teaches all the elements of these claims. *Id.*

As noted above, the cancellation of claim 19 and the incorporation of the limitations of allowable claim 34 into claim 22 obviate this rejection.

### **35 U.S.C. § 103**

Previous claims 19, 22-26, 30, 32, 41, 42, 45, 46, 59 and 27 were rejected under 35 U.S.C. § 103 as allegedly unpatentable over Sohaskey (as applied above) in view of Birch. (Office Action, pages 6-7). Previous claims 19, 22-26, 30, 32, 41, 42, 45, 46, 59 and 20 were rejected under 35 U.S.C. § 103 as allegedly unpatentable over Sohaskey (as applied above) in view of U.S. Patent No. 6,329,160 (hereinafter "Schneider"). (Office Action, pages 7-9). Previous claims 19, 22-26, 30, 32, 41, 42, 45, 46, 59 and 28, 29, 31 and 37 were rejected under 35 U.S.C. § 103 as allegedly unpatentable over Sohaskey (as applied above) in view of U.S. Patent No. 5,399,496 (hereinafter "Fujiwara"). (Office Action, pages 9-10). Previous claims 19, 22-26, 30, 32, 41, 42, 45, 46, 59 and 21 were rejected under 35 U.S.C. § 103 as allegedly unpatentable over Sohaskey (as applied above) in view of Knudtson. (Office Action, pages 10-12).

Claims 19 and 20 have been canceled and the limitations of allowable claim 34 incorporated into claim 22. Accordingly, the rejections have all been rendered moot and withdrawal thereof is respectfully requested.

**CONCLUSION**

Applicants believe that the claimed subject matter is now in condition for allowance and early notification to that effect is respectfully requested. If any issues remain to be addressed, the Examiner is encouraged to telephone the undersigned.

Respectfully submitted,

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By: \_\_\_\_\_



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